

1  
2  
3  
4  
5  
6 UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
7 AT SEATTLE

8 CEDARWOOD CONDOMINIUM OWNERS  
9 ASSOCIATION, a Washington non-profit  
corporation,

10 Plaintiff,

11 v.

12 ALLSTATE INSURANCE COMPANY, a  
13 foreign insurance company,

14 Defendant.

NO. C18-367 RSM

STIPULATION AND ORDER RE  
BRIEFING SCHEDULE FOR  
DISCOVERY MOTIONS

15 **I. STIPULATION**

16 Plaintiff Cedarwood Condominium Owners Association and defendant Allstate  
17 Insurance Company are at an impasse with respect to a series of discovery issues that relate  
18 to the Washington Supreme Court's *Cedell v. Farmers Ins. Co. of Washington*, 176 Wn.2d  
19 686 (2013), decision and its progeny. The disputed issues relate to: (1) whether certain  
20 documents currently being withheld or redacted by Allstate based on claims of privilege  
21 should be protected from discovery by the Association or the production of those same  
22 documents should be compelled; and (2) whether Allstate's trial counsel are subject to  
23 deposition discovery due to their performance of pre-suit activities during Allstate's  
24

1 adjustment of the Association's claim and, as a result, should be compelled to appear for  
2 deposition or, conversely, whether they should be protected from this deposition discovery.

3 In relation to some of the disputed documents at issue, Allstate recently filed a motion  
4 for protective order (Dkt. # 13). In conferring over these issues, it became apparent to the  
5 parties that these and other discovery issues would result in numerous discovery motions  
6 and/or cross-motions being filed with the Court. Rather than have numerous and potentially  
7 duplicative motions, and in the interest of preserving Court and party resources, the parties  
8 ask for permission to file one set of discovery motions, with modified page limits. As such,  
9 Allstate's current motion for a protective order (Dkt. # 13) will be withdrawn. The parties  
10 request permission from the Court to address all of these discovery issues in one holistic  
11 motion process on a three-Friday timeline, wherein Allstate will file an 18-page Motion for a  
12 Protective Order, the Association will file an 18-page Opposition and Cross-Motion to  
13 Compel, and then Allstate will file a six-page Reply.

14 There is one issue as to the briefing schedule that the parties have not been able to  
15 reach agreement on and, as such, request that the Court resolve. The Association would like  
16 permission to file a six-page Sur-Reply given that the Association is cross-moving for relief  
17 and because it will result in the parties being provided an equal number of briefing pages.  
18 Allstate maintains that a sur-reply is procedurally inappropriate. As such, the parties provide  
19 two alternative briefing schedules, one with a sur-reply and one without, for the Court to  
20 choose from should it enter the Order requested through this stipulation.

21  
22 //

23 //  
24

1 DATED this 13th day of September, 2018.

2 ASHBAUGH BEAL

WILSON SMITH COCHRAN DICKERSON

3 By s/ Jesse D. Miller

By s/ Alfred E. Donohue

Jesse D. Miller, WSBA #35837

Alfred E. Donohue, WSBA #32774

4 [jmiller@ashbaughbeal.com](mailto:jmiller@ashbaughbeal.com)

[donohue@wscd.com](mailto:donohue@wscd.com)

Zachary O. McIsaac, WSBA #35833

Sally E. Metteer, WSBA #20869

5 [zmcisaac@ashbaughbeal.com](mailto:zmcisaac@ashbaughbeal.com)

[metteer@wscd.com](mailto:metteer@wscd.com)

Jocelyn J. Whiteley, WSBA #49780

Attorneys for Defendant

6 [jwhiteley@ashbaughbeal.com](mailto:jwhiteley@ashbaughbeal.com)

Attorneys for Plaintiff

7  
8  
9 **II. ORDER**

10 IT IS SO ORDERED that the parties are granted leave to file one holistic motion,  
11 with modified page limits, to address the currently disputed discovery issues between them  
12 related to *Cedell* and its progeny. The motion will be filed on a three-Friday calendar, with  
13 the following page limits:

14 Allstate will file an 18-page Motion for a Protective Order, the Association will file  
15 an 18-page Opposition and Cross-Motion to Compel, Allstate will file a six-page Reply no  
16 later than noon on the Wednesday before the noting date, and then the Association will file a  
17 six-page Sur-Reply no later than the noting date.

18 DATED this 14<sup>th</sup> day of September 2018.

19  
20 

21 RICARDO S. MARTINEZ

CHIEF UNITED STATES DISTRICT JUDGE

22 //  
23  
24

1 Presented by:

2 ASHBAUGH BEAL

3 By s/ Jesse D. Miller

Jesse D. Miller, WSBA #35837

4 [jmiller@ashbaughbeal.com](mailto:jmiller@ashbaughbeal.com)

Zachary O. McIsaac, WSBA #35833

5 [zmcisaac@ashbaughbeal.com](mailto:zmcisaac@ashbaughbeal.com)

Jocelyn J. Whiteley, WSBA #49780

6 [jwhiteley@ashbaughbeal.com](mailto:jwhiteley@ashbaughbeal.com)

Attorneys for Plaintiff

7 WILSON SMITH COCHRAN DICKERSON

8 By s/ Alfred E. Donohue

9 Alfred E. Donohue, WSBA #32774

[donohue@wscd.com](mailto:donohue@wscd.com)

10 Sally E. Metteer, WSBA #20869

[metteer@wscd.com](mailto:metteer@wscd.com)

11 Attorneys for Defendant